IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 27594 of 2007(I)

PETITIONER:

BIJU THOMAS,KALLOOKADAN HOUSE,
KODANADU P.O.,ERNAKULAM DISTRICT, PIN – 683 544.

BY ADV. SRI.JOSEPH JERARD SAMSOM RODRIGUES

RESPONDENTS:
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1. THE COMMERCIAL TAX OFFICER,
FIRST CIRCLE, PERUMBAVOOR.

2. THE COMMISSIONER,
COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

BY ADV. SHRI.SREEKRISHNA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 27594 of 2007

Dated, this the 20th day of September, 2007

J U D G M E N T

Petitioner applied for Form 16 for purchase of JCB from outside Kerala. According to the petitioner, petitioner is going to engage as operator for the equipment and therefore letting out of the same does not attract tax. I do not think this Court should decide this issue which 1st respondent is free to decide after conducting enquiry about the nature of operation of the petitioner and after considering the effect of statutory provisions on such business activities. However, petitioner is entitled to get Form 16 for brining the equipment. Therefore, this writ petition is disposed of directing 1st respondent to verify petitioner's application and documents towards proof of petitioner's identity and if these are proved, then to issue Form 16 for purchase of the JCB from outside Kerala. It is open to 1st respondent to conduct enquiry about petitioner's business activities and assess and demand tax in accordance with law, if petitioner is liable. Form 16 should be issued within one week from the date of production of a copy of this judgment along with proof of identity and address by the petitioner.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg